

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 17 March 2021

Public Authority: Imperial College Healthcare NHS Trust

Address: The Bays
South Wharf Road
St Mary's Hospital
London
W2 1NY

Decision (including any steps ordered)

1. The complainant requested from Imperial College Healthcare NHS Trust ("the Trust") information relating to the Trust's plans to increase hospital capacity to accommodate increased admissions as a result of the Covid-19 pandemic. By the date of this notice the Trust had not provided a substantive response to this request.
2. The Commissioner's decision is that the Trust has failed to respond to the request within 20 working days and has therefore breached section 10 of the FOIA.
3. The Commissioner requires the Trust to take the following steps to ensure compliance with the legislation.
 - Issue a substantive response to the request in accordance with its obligations under the FOIA.
4. The Trust must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

5. On 10 January 2021, the complainant wrote to the Trust and requested information in the following terms:

"Please send me the following information as requested under the Freedom of Information Act.

- 1. Copies of all communication (emails, meeting minutes, memos etc) within the Imperial College Hospital Trust since 1st March 2020 detailing measures proposed and considered to increase the capacity of the hospitals under the control of Imperial College Hospital Trust, or the wider London area, in order to accommodate the predictable increase in admissions during winter 2020/21 due to Covid-19*
 - 2. Copies of all communication (emails, meeting minutes, memos etc) within the Imperial College Hospital Trust since 1st March 2020 detailing measures actioned to increase the capacity of the hospitals under the control of Imperial College Hospital Trust, or the wider London area, in order to accommodate the predictable increase in admissions during winter 2020/21 due to Covid-19*
 - 3. Copies of all communication (emails, meeting minutes, memos etc) within the Imperial College Hospital Trust since 1st March 2020 detailing the reasons for rejecting any measures proposed and considered to increase the capacity of the hospitals under the control of Imperial College Hospital Trust, or the wider London area, in order to accommodate the predictable increase in admissions during winter 2020/21 due to Covid-19"*
6. Whilst the Trust did not acknowledge this request, the complainant has provided evidence which shows that the request was sent to the Trust's published email address for freedom of information requests. Therefore, the Commissioner has assumed that this request was received by the Trust.
7. On 8 February 2021 as the complainant had not received a response, he wrote to the Trust to request an update on the status of his request. The Council did not respond.
8. By the date of this notice the Trust had not provided the complainant with a substantive response to his request.

Scope of the case

9. The complainant contacted the Commissioner 11 February 2021 to complain about the Trust's failure to respond to his request.
10. The Commissioner contacted the Trust on 23 February 2021 reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.
11. The Commissioner also contacted the complainant on 23 February 2021 to explain that the Trust had been given 10 working days from that date within which to provide a response to their request.
12. The complainant has stated to the Commissioner that he had not received a substantive response to his information request by the date of this notice.
13. The scope of this notice and the following analysis is to consider whether the Trust has complied with section 10 of the FOIA.

Reasons for decision

14. Section 10 of the FOIA states that:

Any person making a request for information to a public authority is entitled –

- (a) To be informed in writing by the public authority whether it holds information of the description specified in the request, and*
- (b) If that is the case, to have that information communicated to him.*

15. The Commissioner considers that the request in question fulfilled the above criteria and therefore constituted a valid request for recorded information under the FOIA.
16. Section 10 of the FOIA states that responses to requests made under the Act must be provided, "*promptly and in any event not later than the twentieth working day following the date of receipt.*"
17. The Trust did not provide a substantive response to the request within 20 working days of receipt. Therefore, the Commissioner's decision is that the Trust has breached section 10 of the FOIA.

Right of appeal

18. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0300 1234504

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

19. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
20. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

Ben Tomes
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF